

STATE OF VERMONT
PUBLIC SERVICE BOARD

CPG #NM-674

Application of Thomas and Nancy Brock for a)
certificate of public good for an interconnected net)
metered photovoltaic system)

Order entered: 9/2/2009

I. INTRODUCTION

This case involves an application filed by Thomas and Nancy Brock ("Applicants") on June 2, 2009, requesting a certificate of public good ("CPG") pursuant to 30 V.S.A. §§ 219a and 248 and Vermont Public Service Board ("Board") Rule 5.100 for a net metering system. The net metering system consists of a pole-mounted photovoltaic array to be located on the Applicants' property in Waterbury Center, Vermont.

Notice of the application in this docket was sent, by the Applicants, to all parties as specified in the Board's Rule 5.100. The notice stated that any party wishing to submit comments or request a hearing in this matter needed to file comments with the Board within thirty (30) days of the date that the notice of the application was sent.

On June 26, 2009, the Board received a letter from Lydia Grondin and Chad Binkerd, adjoining landowners, expressing concerns with regard to the aesthetic impact of the project and requesting that the Board require a hearing prior to granting approval of this project.

On August 4, 2009, Gregg Faber, the Hearing Officer appointed by the Board, conducted a site visit and prehearing conference in this matter. In attendance at the site visit and prehearing conference were: Nancy Brock; Chad Binkerd; Michelle Bisceglia, an adjoining landowner; Sarah Hoffmann, Esq., on behalf of the Department of Public Service; and David Blittersdorf and Doug Goldsmith, on behalf of Earth Turbines, Inc., the installers of the system.

II. FINDINGS

Based upon the information in the record, including the application and its accompanying documents, the Board makes the following findings in this matter.

1. The proposed net metering project is located on property owned by the Applicants at 145 Valley View Road in Waterbury Center, Vermont. Application at Section 1.
2. The proposed photovoltaic system will be located on the Applicants' lawn approximately 75 feet northwest of the Applicants' residence. Application at Sections 4 and 8.
3. The proposed project consists of a solar-tracking photovoltaic system with a system-rated power output of 2.337 kW_s AC. The facility will be interconnected with the Green Mountain Power Corporation electrical distribution system. Application at Section 5 and attachment.
4. The motorized solar-tracking array keeps the photovoltaic panels at a perpendicular angle to the sun, minimizing any glare or reflection caused by the panels. Application at Section 8.
5. Applicants have certified that the project is in compliance with all of the provisions of Sections 3 and 8 of the application. Based on these submissions, we conclude that the project does not raise a significant issue with respect to the environmental criteria of 30 V.S.A. § 248. Application at Sections 3 and 8.
6. Applicants have certified compliance with the insurance requirements as set forth in Section 3 of the application. Application at Section 3.

III. DISCUSSION & CONCLUSION

The Board has received comments from Ms. Grondin and Mr. Binkerd regarding the aesthetic impacts, both visual and auditory, of this proposed project. In the letter filed with the Board on June 26, 2009, the couple states that "while the tracker will be located behind some pine trees . . . we will still be able to see the tracker, be subject to potential glare, and hear the repetitive clicking of its motor while enjoying the peacefulness of our front yard." Therefore, the couple requests "a pre-hearing prior to the granting of approval for this permit."

Board Rule 5.109(A) provides that the Board may hold a hearing for a net metering system when it determines that the system raises a substantive issue with respect to one or more of the criteria of 30 V.S.A. § 248. Pursuant to the Board's Order of April 19, 1999, in PSB Docket No. 6181, *"Investigation into the Use of a Net Metering System for the Purchase and*

Sale of Electricity from Small Electrical Generating Systems to and from Electric Companies," parties with objections or concerns must make a showing that the application raises a significant issue with respect to one or more substantive criteria applicable to the proposed net metering system. Accordingly, the Net Metering Application Form states that persons requesting a hearing regarding a net metering project "must make a showing that the application raises a significant issue regarding one or more of the substantive criteria applicable to the proposed net metering system."¹

Pursuant to 3 V.S.A. § 811, the Board has read the record, including correspondence from the parties and the transcript of the prehearing conference (which includes Board staff's observations from the site visit), and we conclude that the Grondin-Binkerds have not shown that the project raises a significant issue. The proposed array at approximately 17 feet in height and 16 feet in width, is relatively small and will be located approximately 300 feet from the Grondin-Binkerds residence.² The visibility of the array from the Grondin-Binkerds property will be largely obscured by a large evergreen tree and will not intrude upon the primary views to the west.³ The evergreen tree will also act to shield the intermittent noise emitted by the electric motor powering the solar racking system.

The Grondin-Binkerds argue that notwithstanding the Applicants' "attempt to minimize the aesthetically unpleasing visual incongruity of the tracker, we will still be able to see the tracker, . . ." We agree that the project will likely be visible from some portions of the Grondin-Binkerds' property. However, the fact that the project will be visible from the Grondin-Binkerds' property does not amount to a showing that the project raises a significant issue under the substantive criteria of 30 V.S.A. § 248. Our conclusion in this case would likely be different had the Grondin-Binkerds shown that the project interfered with significant or primary views from their residence or that the intermittent noise from the project would be more intrusive than other noise common in a residential area, such as road traffic noise or the sound of wind through the surrounding trees. Further, the Applicants have sought to mitigate the aesthetic impact of the project on neighboring properties by siting the project behind trees and potentially decreasing the

1. State of Vermont Public Service Board Application for a Certificate of Public Good for Interconnected Net Metered Power Systems, at 1.

2. See tr. 8/4/09 at 5-6 (Binkerds), 11 (Blittersdorf).

3. *Id.* At 7 (Binkerds).

project's energy output. Consequently, because we find that the project does not raise a significant issue with respect to the substantive criteria of 30 V.S.A. § 248, further proceedings in this matter are unnecessary.

IV. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the photovoltaic net metering system proposed by the Applicants, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont pursuant to 30 V.S.A. § 219a, and a certificate of public good to that effect shall be issued in this matter, pursuant to 30 V.S.A. §§ 219a and 248.

DATED at Montpelier, Vermont, this 2nd day of September, 2009.

s/James Volz)	
)	
)	PUBLIC SERVICE
s/David C. Coen)	
)	BOARD
)	
)	OF VERMONT
)	

OFFICE OF THE CLERK

Filed: September 2, 2009

Attest: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.